

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LINDA ASPINALL, and
DONALD ASPINALL,

Plaintiffs,

Case No.

v

Hon.

MENARD, INC.,

Defendant.

John T. Alexander (P43789)
ALEXANDER & ANGELAS, P.C.
Attorneys for Plaintiffs
30200 Telegraph Road, Suite 400
Bingham Farms, MI 48025
(248) 290-5600

Thomas G. Herman (P27846)
GARAN LUCOW MILLER, P.C.
Attorneys for Defendant
300 Ottawa Avenue N.W., Suite 800
Grand Rapids, MI 49503
(616) 742-5500

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**NOTICE OF REMOVAL OF CAUSE TO THE UNITED STATES
DISTRICT COURT WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

TO: John T. Alexander

NOW COMES the Defendant, Menard, Inc., by and through its attorneys Garan Lucow Miller, P.C., and in support of this Notice of Removal of Cause to the United States District Court Western District of Michigan, Southern Division, states as follows:

1. That on December 10, 2018, Plaintiffs commenced this cause of action in the Circuit Court for the County of Calhoun, State of Michigan, by filing Plaintiff's Summons and Complaint in which Menard, Inc., a Wisconsin corporation is named as Defendant. (**Exhibit A**)
2. Service of Process was effected by service on Defendant's registered agent on December 10, 2018. (**Exhibit B**).

3. That this action is a suit at common law of a civil nature and the amount involved, inclusive of interest and costs, and upon information and belief, based upon allegations and representations of the Plaintiff, appear to be in excess of the sum of \$75,000. (Plaintiff's Complaint – **Exhibit A**) as Plaintiff alleges:

18. That Plaintiff sustained personal injuries as a direct and proximate result of Defendant's negligence as alleged herein.
 19. That as a direct and proximate result of the negligence of Defendant, as aforesaid, the injured Plaintiff:
 - a. sustained severe bodily injuries which were painful, disabling and necessitated medical care;
 - b. suffered shock and emotional damage;
 - c. possibly aggravated pre-existing conditions and/or dormant conditions;
 - d. was unable to attend to her usual affairs or render services as formerly;
 - e. lost the enjoyments of pursuing a normal life; and,
 - f. suffered a loss of past, present and future earnings and/or earning potential.
 20. That as a direct and proximate result of the negligence of Defendant and the resulting injuries to Plaintiff, Plaintiff will incur past, present and future expenses for hospitals, doctors, x-rays, medicines, medical supplies and attention.
4. That Defendant, Menard, Inc., shows this Honorable Court that this action involves a controversy between citizens of different states in that:

- (A) Plaintiffs, Linda Aspinall and Donald Aspinall, are alleged to be citizens of Michigan.
- (B) Defendant, Menard, Inc., at the time of the commencement of this action, was, and now is incorporated under the laws of Wisconsin and is not a citizen of the State of Michigan.

(C) Defendant Menard, Inc., had at the time of commencement of this action, and now has, its principal place of business in the State of Wisconsin, and is not a citizen of the State of Michigan by reason of its principal place of business.

(D) Defendant Menard, Inc. is the owner and operator of the Battle Creek, Michigan store where this incident occurred.

5. That this notice of removal is filed with this Court within 30 days after receipt by the Defendant, Menard, Inc., on or about December 21, 2018, by service on the Defendant of the Plaintiff's Summons and Complaint. Therefore, this removal is filed as required by 28 USC §1446(b).

6. That written notice of filing this removal has been given to all adverse parties as required by law and a copy of the Notice of Removal has been filed with the Clerk of the Court for the County of Calhoun, State of Michigan.

7. That attached is a copy of the process and pleadings that were served upon the Defendant in this cause (**Exhibit A**).

WHEREFORE, Defendant, Menard, Inc., herein, respectfully prays that this Honorable Court enter its order for removing this cause from the Circuit Court for the County of Calhoun, State of Michigan, to the United States District Court, Western District of Michigan, Southern Division.

Date: January 11, 2019

/s/ Thomas G. Herman

Thomas G. Herman (P27846)
Garan Lucow Miller, P.C.
300 Ottawa Ave., N.W., Ste. 800
Grand Rapids, MI 49503
(616) 742-5500

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

and I hereby certify that I have mailed by United States Postal Service the paper to the following:

John T. Alexander
Alexander & Angelas, P.C.
30200 Telegraph Road, Suite 400
Bingham Farms, MI 48025

/s/ Lori A. Bergy

Lori A. Bergy